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PATENT LAW DEPARTMENT  
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OFFICE OF PETITIONS

In re Application of :  
Gregor Sagner et al : DECISION DISMISSING  
Application No. 10/678,440 : PETITION  
Filed: October 1, 2003 :  
Attorney Docket No. 21428-US :  
:

This is a decision on the petition under 37 CFR 1.182, filed on May 7, 2004, which is being treated as a request to withdraw the requirement for omitted Figures 3 and 4.

On October 1, 2003, the above-identified application was filed. However, on March 29, 2004, the Office of Initial Patent Examination mailed a "Notice of Missing Parts of Application," stating, *inter alia*, that the application had been accorded a filing date of October 1, 2003, and advising applicant that Figures 3 and 4 described in the specification appeared to have been omitted.

In response, on May 7, 2004, applicant filed the present petition and authorization to charge the \$130.00 petition fee to deposit account no. 50-0812. Applicant explains that Figures 3 and 4 were not missing on filing the application. Applicant further explains that Figures 3 and 4 were a synopsis of Figures 3A-3D and Figures 4A-4B, which were fully supported in the specification.

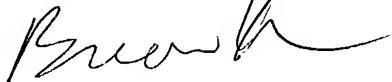
It is obvious from the petition that no drawings were actually missing on filing the above-application. Rather, no Figures 3 or 4 were intended to be filed, but rather served as a description of Figures 3A-3D and Figures 4A-4B, respectively. However, because the specification referenced Figures 3 and 4, those Figures appeared to have been omitted. As explained in MPEP 601.01(g), as long as drawings for Figures 3A-3D and 4A-4B were present, the inclusion of text referring to Figures 3 and 4 should not have resulted in the mailing of the Notice of Omitted Items; as this was an error in the specification not the drawings.

Accordingly, the petition is dismissed as moot. No fee is due.

Applicant should submit a preliminary amendment to the specification deleting the references to Figures 3 and 4 in compliance with 37 CFR 1.121.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 1, 2003, using the drawings filed on that date.

Any inquiries related to this decision should be directed to Karen Creasy at (703) 305-8859.



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